

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

LAURA FOSTER,

Plaintiff,

v.

MARTIN O'MALLEY,  
*Commissioner of the Social Security  
Administration,*

Defendant.

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1:21-CV-1161-RP

**ORDER**

Before the Court is the report and recommendation from United States Magistrate Judge Susan Hightower concerning Plaintiff's Motion for and Memorandum in Support of Award of Attorney's Fees Under 42 U.S.C. § 406(b) of the Social Security Act, (Dkt. 23). (R. & R., Dkt. 25). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Hightower issued her report and recommendation on February 1, 2024. (*Id.*). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 25), is **ADOPTED**.

**IT IS FURTHER ORDERED** that Plaintiff's attorney, Michael Kelly, shall be awarded attorney's fees in the amount of \$16,129.73, to be paid out of Plaintiff's past due benefits under 42 U.S.C. § 406(b)(1).

**IT IS FINALLY ORDERED** that Plaintiff's attorney, Michael Kelly, shall reimburse Plaintiff the \$6,044.89 in fees he received under the EAJA.

**SIGNED** on February 29, 2024.

A handwritten signature in blue ink, appearing to read 'Robert Pitman', is written above a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE